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FORM PTO-1082 (modified)

Case Docket No.: LKI 205.4

Mail Stop Patent Application
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Date: January 26, 2004

Transmitted herewith for filing is the patent application of

Inventor(s): George R. Kaplan
Avigdor Shachrai
Oded Anner
Leonid Gurvich

For: LASER MARKING SYSTEM

Enclosed are:

[x] Specification - 50 pages
[x] Claims - 19 pages
[x] Abstract - 1 page
[x] 16 Sheets of drawing. (FIGS. 1-14)
[x] A Declaration and Power of Attorney.
[x] Revocation of Power of Attorney & Address Change
[x] Statement Under 37 C.F.R. 1.607
[x] Preliminary Amendment - 22 pages
[x] Letter to Official Draftsman
[x] 16 Sheets of formal drawings (FIGS. 1-14)
[x] Information Disclosure Statement
[x] PTO Form SB/08A (1449)
[x] 5 References

[x] Priority is hereby claimed on the basis of the following:

Country	Serial No.	Date
USA	Contin of 10/237,329 now Pat 6684663, which is a	09/06/2002
USA	Div of 09/688,655 now Pat 6476351, which is a	10/16/2000
USA	Div of 09/309,982 now Pat 6211484, which is a	05/11/1999
USA	Div of 08/690,309 now Pat 5932119	07/30/1996

The filing fee has been calculated as shown below:

FOR:	(Col. 1) NO. FILED	(Col. 2) NO. EXTRA	SMALL ENTITY RATE	FEE		OTHER THAN A SMALL ENTITY RATE	FEE
BASIC FEE			$ 385.00		OR		$ 770.00
TOTAL CLAIMS	76 - 20	= 56 x 9=	$		OR	x 18=	$ 1008.00
INDEP CLAIMS	13 - 3	= 10 x 43=	$		OR	x 86=	$ 860.00
[] MULTIPLE DEPENDENT CLAIM PRESENTED			+145=	$	OR	+290=	$
		TOTAL	$		OR		$ 2638.00

[x] A check in the amount of $ 2638.00 to cover the filing fee is enclosed.

[x] Please charge any insufficiency of fee, or credit any excess, to Deposit Account No. 50-0427.

MILDE & HOFFBERG, LLP

By _____
Steven M. Hoffberg
Reg. No. 33,511

914-949-3100

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I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

By: _____

LKI 205.4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	George Kaplan et al.
Serial No.	:	To be assigned
Filed	:	Herewith
For	:	LASER MARKING SYSTEM

January 26, 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

STATEMENT UNDER 37 C.F.R. 1.607

1.607 Request by applicant for interference with patent.

(a)

An applicant may seek to have an interference declared between an application and an unexpired patent by,

(1)
Identifying the patent,

US 6,552,300 (Kerner), April 22, 2003

US 6,649,863 (Teoman, et al.), November 18, 2003

(2)
Presenting a proposed count,

The proposed counts are represented by claims 126-188 presented in the preliminary amendment.

(3)
Identifying at least one claim in the patent corresponding to the proposed count,

Claim correspondence chart

Application	US 6,552,300
126	1
127	1
128	1
129	1
130	1
131	12, 15
132	--
133	--
134	--
135	--
136	--
137	14
138	15
139	16
140	16
141	16
142	16
143	16
144	17
145	19
146	20
147	21
148	--
149	--
150	1
151	2
152	3
153	4
154	5
155	6
156	7
157	8
158	9
159	10
160	11
161	12
162	13
163	14
164	15
165	16
166	17
167	18

168	**19**
169	**20**
170	**21**
171	**22**
172	**23**
173	**24**
174	**25**
175	**26**
176	**27**
Application	**US 6,649,863**
177	**1**
178	**2**
179	**3**
180	**4**
181	**5**
182	**6**
183	**7**
184	**8**
185	**9**
186	**10**
187	**11**
188	**6**
189	**7**
190	**8**
191	**9**
192	**10**
193	**11**
194	**1**
195	**2**
196	**6**
197	**6**
198	**9**
199	**10**
200	**11**
201	**9**

(4)
Presenting at least one claim corresponding to the proposed count or identifying at least one claim already pending in its application that corresponds to the proposed count, and, if any claim of the patent or application identified as corresponding to the proposed count does not correspond exactly to the proposed count, explaining why each such claim corresponds to the proposed count, and

The presented claims of the application, both copied and not copied, correspond to the above-indicated corresponding counts (i.e., claims of the patents) because the differences are such as to not define patentably distinct inventions.

(5)
Applying the terms of any application claim,

(i)
Identified as corresponding to the count, and
(ii)
Not previously in the application to the disclosure of the application.

The term "collimated" is believed to mean approximately parallel, which corresponds to, inter alia, the light output of an LED, disclosed in the specification.

The other terms and phrases used in the claims are believed to correspond to, and be expressly supported by, the disclosure.

(6)
Explaining how the requirements of35 U.S.C. 135(b) are met, if the claim presented or identified under paragraph (a)(4) of this section was not present in the application until more than one year after the issue date of the patent.

Claims 126-149 claim are not copied from US 6,552,300.

Claims 177-187 are presented less than one year after issuance of US 6,649,863.

Claims 188-201 are not copied from 6,649,863.

35 U.S.C. 135(b)(1) states:
A claim which is the same as, or for the same or substantially the same subject matter as, a claim of an issued patent may not be made in any application unless such a claim is made prior to one year from the date on which the patent was granted.

35 U.S.C. 135(b)(2) states:
A claim which is the same as, or for the same or substantially the same subject matter as, a claim of an application published under section 122(b) of this title may be made in an application filed after the application is published only if the claim is made before 1 year after the date on which the application is published.

Claims 126-149 do not claim "the same or substantially the same subject matter" as the prior published or issued claims, and therefore do not violate 35 U.S.C. 135(b), and are not barred.

On the other hand, 35 U.S.C. 135(a) provides:

Whenever an application is made for a patent which, in the opinion of the Director, would interfere with any pending application, or with any unexpired patent, an interference may be declared and the Director shall give notice of such declaration to the applicants, or applicant and patentee, as the case may be. The Board of Patent Appeals and Interferences shall determine questions of priority of the inventions and may determine questions of patentability. Any final decision, if adverse to the claim of an applicant, shall constitute the final refusal by the Patent and Trademark Office of the claims involved, and the Director may issue a patent to the applicant who is adjudged the prior inventor. A final judgment adverse to a patentee from which no appeal or other review has been or can be taken or had shall constitute cancellation of the claims involved in the patent, and notice of such cancellation shall be endorsed on copies of the patent distributed after such cancellation by the Patent and Trademark Office.

This is a different standard than the bars set forth in 35 U.S.C. 135(b), and therefore a declaration of interference for claims 126-149 is believed proper.

See, Housey v. Berman, Interference No. 104,347 (BPAI 1999); affd., Berman v. Housey 291 F.3d 1345 (Fed. Cir. May 29, 2002); In re Sullivan et al., 2003 US App. LEXIS 24776 (Fed. Cir., December 9, 2003) - UNPUBLISHED; In re Berger, 61 U.S.P.Q.2d 1523 (Fed. Cir. 2002).

Claims 150-176 are believed to be proper based on prior claims presented by applicants in Application Serial No. 10/237,329 filed September 6, 2002; Application Serial No. 09/688,655 filed October 16, 2000; Application Serial No. 09/309,982 filed May 11, 1999; Application Serial No. 08/690,309 filed July 30, 1996.

(b)

When an applicant seeks an interference with a patent, examination of the application, including any appeal to the Board, shall be conducted with special dispatch within the Patent and Trademark Office. The examiner shall determine whether there is interfering subject matter claimed in the application and the patent which is patentable to the applicant subject to a judgment in an interference. If the examiner determines that there is any interfering subject matter, an interference will be declared. If the examiner determines that there is no interfering subject matter, the examiner shall state the reasons why an interference is not being declared and otherwise act on the application.

(c)

When an applicant presents a claim which corresponds exactly or substantially to a claim of a patent, the applicant shall identify the patent and the number of the patent claim, unless the claim is presented in response to a suggestion by the examiner. The examiner shall notify the Commissioner of any instance where an applicant fails to identify the patent.

See chart above.

(d)

A notice that an applicant is seeking to provoke an interference with a patent will be placed in the file of the patent and a copy of the notice will be sent to the patentee. The identity of the applicant will not be disclosed unless an interference is declared. If a final decision is made not to declare an interference, a notice to that effect will be placed in the patent file and will be sent to the patentee.

Respectfully submitted,

Steven M. Hoffberg
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LKI 205.4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : George Kaplan et al.

Serial No. :

Filed :

For : LASER MARKING SYSTEM

January 26, 2004

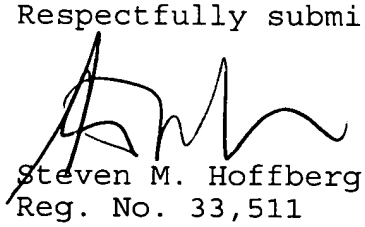
Hon. Commissioner of Patents
& Trademarks
Washington, DC 20231

Sir:

LETTER TO THE OFFICIAL DRAFTSMAN

Enclosed herewith are 16 sheets of formal drawings for the above referenced patent application. Approval of the formal aspects thereof is respectfully solicited.

Respectfully submitted,



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